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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,702	12/29/2000	George A. Durden	BS00155	8399
7590	12/01/2005			
Scott P Zimmerman PLLC P O Box 3822 Cary, NC 27519			EXAMINER BROWN, RUEBEN M	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/751,702		DURDEN ET AL.	
	Examiner		Art Unit	
	Reuben M. Brown		2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 8/3/05, have been fully considered but they are not persuasive. Applicant's main argument on pages 9-10 is that Cragun '683 does not teach 'receiving the program data and program control data from a service provider', since the TV receiver is controlled by a computer system 10, which is local to the subscriber. However, examiner points out that Cragun clearly teach that the EPG data, including ratings information for censoring/filtering TV programming may be downloaded to the viewer from a wide range of service providers, such as web sites 48 associated with Christian organization, and social groups, broadcast networks 46, local affiliates 50 & local cable providers 32, see col. 9, lines 25-65.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 6, 7, 10-13, 17-20, 22 & 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Cragun, (U.S. Pat # 5,973,683).

Considering amended claim 1, the amended claimed 'system for controlling and managing presentation to viewers of TV, cable satellite, Internet, broadcast or other programming content, comprising a receiver adapted to receive from a service provider, a signal corresponding to a program and program control data associated with at least a first portion of the program, such that the program data comprises control instructions to alter the program according to the ratings attribute data', reads on the disclosure in Cragun (Fig. 2 & col. 7, lines 25-67 thru col. 8, lines 1-35; col. 8, lines 55-65; col. 9, lines 45-67 thru col. 10, lines 1-36), of a computing system 10 receiving video programming and corresponding ratings information that used to control the receiver system to determine whether the instant video programming will be displayed, see col. 11, lines 28-34.

In particular, Cragun teaches that different portions of a video program may contain different rating levels, such that some portions of the instant video program may be displayed to a particular viewer, while other portions of the same video program may be blocked from display to the same viewer, col. 11, lines 55-67 thru col.12, lines 1-15. The program control data received 'from a service provider' reads on the EPG data downloaded from various organizations that distribute TV programming censorship EPG's, such as web sites 48, broadcast networks 46, local affiliates 50 and local cable providers 32, see col. 9, lines 25-67. Cragun also discloses that

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different organizations, such as Christian organizations or social groups maintain web sites, from which subscribers may download particular types of EPG that filter particular types of content.

The claimed viewer interface adapted to receive information related to program presentation preferences of a viewer reads on the graphic user interface for visualizing and altering the downloaded TV guide and rating system, see col. 11, lines 19-40; col. 13, lines 1-21 & Fig. 3 & Fig. 4.

The claimed processor adapted to modify the content of at least the first portion of the program based on the data and program presentation preferences and to output the modified first portion of the program for presentation on a display with the remainder of the program is broad enough to read on the operation of the 'V-chip' disclosed in Cragun (col. 8, lines 25-35), which encodes broadcaster's encoded ratings of TV programs, such that at least a segment of a particular video program may be blocked based upon its ratings level, col. 11, lines 55-67 thru col.12, lines 1-15.

Considering amended claims 2, 12-13 & 23, Cragun discloses that the system may block any segment of the video program that contains a ratings level higher than the threshold set for a particular viewer, col. 9, lines 45-67 & col. 11, lines 55-67 thru col.12, lines 1-15.

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Considering amended claim 6, the amended claimed feature of ‘user voting’, reads on the viewer in Cragun, altering the downloaded EPG to meet personal preferences, col. 11, lines 15-54.

Considering amended claim 7, the amended claimed feature of, ‘wherein the program control data is tabulated from viewer feedback’, reads on the disclosure in Cragun, col. 10, lines 8-21; col. 11, lines 19-55; col. 14, lines 45-67; col. 14, lines 19-46 & col. 16, lines 11-18.

Considering amended claim 10, the amended claimed transmission facility for formatting programming, such that the transmission facility comprises a server for providing programming content and a data server for providing content, control data or both content and control data associated with multiple discrete portions of the programming content, reads on the operation of the broadcast distribution network, which includes the broadcast networks, multimedia providers and local cable providers, col. 7, lines 39-55 & col. 8, lines 56-65. Specifically, the claimed data server reads on the web site that provides the specialized TV program guides for the customer, see col. 10, lines 1-35.

Considering amended claims 11 & 18, the claimed method for controlling and managing presentation of programs and portions of programs, include steps that correspond with subject matter mentioned in the rejection of claim 1, and are likewise treated. Regarding the claimed ‘multiple discrete segments of a program’ recited in claim 18, the claimed feature reads on the

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different segments of a video program that may have different ratings levels, and thus are discrete segments.

Considering amended claim 17, the claimed feature of ‘before modifying content, determining whether the portion to be modified exceeds a selected threshold percentage’ reads on the disclosure in Cragun that when a selected program (or segment) has a rating that exceeds the censorship threshold, that the program (or segment) is censored, col. 11, lines 25-67.

Considering claim 19, the content data in Cragun reads on ratings category and content attributes, see Abstract; col. 12, lines 1-10; col. 12, lines 42-67.

Considering amended claim 20, the claimed feature of the content data relating to a predefined level of the content attribute reads on specific level that a segment or program is rated. For instance, Cragun discusses that when a program has a violence level that exceeds level 4, that the segment would be blocked, depending on the user defined threshold, see col. 11, lines 55-67.

Considering amended claim 22, see col. 11, lines 55-67, which teaches that any time segment of a video program that exceeds a certain threshold may be blocked, which reads on the claimed subject matter.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cragun, '683, in view of Cragun, (U.S. Pat # 5,481,296).

Considering amended claim 3, even though Cragun '683 discloses that the system blocks offensive segments of a video program from being displayed, the reference does not explicitly teach that the instant segments may be deleted. Nevertheless, Cragun '296, which is in the same field of endeavor, discloses that a viewer has the option of editing video programming to delete offensive portions, col. 16, lines 36-55. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Cragun '683, locating and deleting an offensive portion of a video program, at least for the desirable improvement of allowing the viewer the option to record and view the particular video programming in a version or format that is acceptable, as shown by Cragun '296.

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6. Claims 4-5, 8-9, 14-16, 21 & 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragun, '683, in view of Block (U.S. Pat # 6,675,384).

Considering amended claims 4, 8 & 14, Cragun '683 teaches blocking offensive programming, but does not disclose replacing the offensive programming with alternate material. Nevertheless, Block discloses a system that provides alternate programming for viewer that is not authorized to view a particular movie, Abstract; col. 4, lines 21-45; col. 13, lines 51-58. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Cragun '683 to provide viewers that have been denied access to requested video programming with alternate programming, as taught by Block, at least for the desirable improvement of presenting to the viewer more than just a blank screen or beeped audio.

Considering claims 5, 9 & 15, Block teaches that the alternate programming may be provide over a different channel, col. 9, lines 11-25 & col. 13, lines 51-58. As for claim 9, the claimed external device adapted to communicate with the processor, the tuner for tuning within the signal to a second channel having an alternative audio or video component reads on the tuner in Block, which tunes to a second channel to receive alternate programming, col. 13, lines 51-58; col. 19, lines 17-35 & col. 22, lines 3-14.

Considering amended claim 16, Cragun does not teach providing the user with an indicia indicating whether the portion will be modified. However, Block teaches providing a viewer of an appropriate message as a substitute for offensive scenes, col. 17, lines 65-67 thru col. 18, lines

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1-54. It would have been obvious for one ordinary skill in the art at the time the invention was made, to modify Cragun with the teachings of Block, indicating to the viewer that a scene(s) has been blocked, at least for the desirable benefit of informing the viewer of the status, so that the instant viewer doesn't think that the TV system is not properly operating.

Considering amended claim 21, Cragun does not discuss indicating whether the content data applies to video, audio or text components. However, Block discloses differentiating between the ratings of audio and the ratings of video, Abstract; col. 9, lines 41-56 & col 10, lines 1-12. It would have been obvious for one ordinary skill in the art at the time the invention was made, to modify Cragun with the feature of indicating the rating level of audio and video for the desirable improvement of allowing the viewer to have selective access to the video and audio content separately, as taught by Block (col. 16, lines 31-58).

Considering amended claim 24, the claimed method for providing dynamic user control over programming comprising providing the consumer electronic device with program control data synchronized to the programming wherein the program control data comprises varying control instructions to alter the program according to ratings attribute, corresponds with subject matter mentioned above in the rejection of claim 1, and is likewise treated, also see col. 13, lines 45-50.

The claimed feature of 'inputting the user's control setting that describe the type of programming the user desires to modify' and 'modifying the programming according to the

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user's control setting and displaying the modified programming to the user', reads on the disclosure in Cragun of the user visualizing and altering downloaded program guide information, for filtering the incoming program, according to the downloaded censorship criteria and the user's preferences, col. 11, lines 15-55 & col. 12, lines 12-62.

The claimed feature of, 'determining whether to display a particular program by comparing the ratings attribute to the user's control settings and threshold'; Cragun, col. 12, lines 12-24.

Even though Cragun alters or blocks programming material according to a threshold, the reference does not teach the additional claimed feature of, 'determining how often portions of the programming will be modified, and if a number of modifications exceeds a threshold percentage, then the program is entirely blocked and the user is permitted to change the ratings attribute'. Nevertheless, Block which is in the same field of endeavor, teaches that if a certain percentage of a program would be blocked because of offensive subject matter (based on a particular content criteria level) that the program would not be viewed, col. 9, lines 25-67 thru col. 10, lines 1-24 & col. 13, lines 10-56. Block goes on to teach that the viewer may then change the content criteria level, in order to determine how much programming would be blocked at the new content criteria level, see col. 9, lines 41-64. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Cragun with the feature of only blocking an entire video program after it is determined that a certain amount of the program would be blocked, above a

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threshold, according to its content ratings, at least for the desirable improvement of allowing the viewer even more control of the censorship of TV programming, as taught by Block.

Considering amended claim 25, the claimed use of a DVR to dynamically store/edit the programming so that it is seamlessly provided to the user, reads on the operation of the user's receiver unit, at least in Block, which generates the modified programming, col. 10, lines 14-24; col. 18, lines 10-40; Figs. 9-10. The claimed DVR reads on the memory used in subscriber station 20 to store programming, at least as the programming is being edited for the subscriber, see col. 18, lines 10-40 & col. 22, lines 51-67.

Considering claim 26, Cragun teaches that content data is delivered via, an EPG, col. 9, lines 25-45 & col. 10, lines 1-8.

Considering amended claim 27, the amended claimed feature of 'user voting', reads on the viewer in Cragun, altering the downloaded EPG to meet personal preferences, col. 11, lines 15-54.

Considering amended claim 28, the amended claimed feature of, 'wherein the program control data is tabulated from viewer feedback', reads on the disclosure in Cragun, col. 10, lines 8-21; col. 11, lines 19-55; col. 14, lines 45-67; col. 14, lines 19-46 & col. 16, lines 11-18.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
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or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown


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